



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

**BY FACSIMILE AND U.S. MAIL**

**APR 27 2005**

Robert Plotkin  
McGuireWoods LLP  
1050 Connecticut Avenue, N.W.  
Suite 1200  
Washington, DC 20036

RE: MUR 5405  
Apex Healthcare, Inc.  
and James Chao

Dear Mr. Plotkin:

On April 19, 2005, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. Enclosed you will find a copy of the fully executed conciliation agreement for your files.

The file in this matter has been closed and this matter is now public. Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Schwartz".

Adam Schwartz  
Attorney

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Robert Plotkin  
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Enclosure  
Conciliation Agreement

cc: William Farah (w/ enclosure)

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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Apex Healthcare, Inc.  
and James Chao

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MUR 5405

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by Gerald Jaecks.

The Commission found reason to believe that Apex Healthcare, Inc. and James Chao (collectively "Respondents") violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). In the case of Mr. Chao, the Commission found that his violations were knowing and willful.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. James Chao ("Chao") is a United States citizen residing in Naperville, Illinois, a suburb of Chicago. Chao is the President and sole shareholder of Apex Healthcare, Inc. ("APEX").

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2. APEX is a subchapter S corporation that provides claims processing services to hospitals and medical practices in the Chicago area. APEX employs between 35 and 40 individuals.
  3. Daniel Hynes ("Hynes") was a candidate for U.S. Senate from Illinois in 2004. He currently serves as Illinois State Comptroller, a position he has held since 1998.
  4. Hynes for Senate is the authorized committee supporting the election of Daniel Hynes to the U.S. Senate in 2004 within the meaning of 2 U.S.C. § 431(b) for Hynes.
  5. The Commission acknowledges and has taken into consideration Respondent APEX and Chao's cooperation in connection with this matter.

Applicable Law

6. The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits corporations from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a). In addition, section 441b(a) prohibits any officer or director of any corporation from consenting to any expenditure or contribution by the corporation.
7. It is also unlawful for any person to make a contribution in the name of another, or for any person to knowingly permit his or her name to be used to make such a contribution. 2 U.S.C. § 441f.

Factual Background

8. In 2002, in response to a request by Hynes's campaign manager to solicit contributions for federal candidates, Chao approached several APEX employees and their family members and asked them to make contributions to People for Marty Castro, Citizens for Mark Shriver, and Bill Nelson for Senate. Chao promised each person from whom he solicited a contribution that he would fully reimburse the contribution.
9. APEX employees and their family members made contributions totaling \$6,000 to People for Marty Castro, Citizens for Mark Shriver, and Bill Nelson for Senate in 2002.
10. Respondents used APEX corporate funds to reimburse these contributions.
11. Respondents forwarded the contributions to Hynes's campaign manager but did not advise him that they reimbursed the contributions with APEX funds.
12. Respondents never had any communications with People for Marty Castro, Citizens for Mark Shriver, or Bill Nelson for Senate regarding these contributions.
13. In 2003, Hynes announced his candidacy for U.S. Senate from Illinois. On multiple occasions, Hynes asked Chao how much money he could raise, and Chao responded that he could raise between \$15,000 and \$20,000 in each quarter of 2003.
14. Chao personally contributed \$14,000 to Hynes for Senate in 2003. His wife, Annie Ma Chao, contributed \$4,500 to Hynes for Senate in 2003.

15. In addition, Chao approached family members, APEX employees, and their family members and asked them to make contributions to Hynes for Senate.

Chao promised each person from whom he solicited a contribution that he would fully reimburse the contribution.

16. Chao's family members, APEX employees, and their family members contributed \$69,500 to Hynes for Senate in 2003.

17. Respondents used corporate funds to reimburse the contributions identified in the previous paragraph.

18. In addition, Respondents used corporate funds to make an in-kind contribution of furniture to Hynes for Senate of approximately \$1,500.

19. In total, between 2002 and 2003, Respondents used corporate funds to reimburse \$75,500 in contributions that were made in the names of others to federal political committees and made a direct \$1,500 in-kind contribution to Hynes for Senate:

| DATE     | CONTRIBUTOR            | AMOUNT          | RECIPIENT                 |
|----------|------------------------|-----------------|---------------------------|
| 02/19/02 | Employee Relative #1   | \$1,000         | People for Marty Castro   |
| 02/21/02 | Employee Relative #2   | \$1,000         | People for Marty Castro   |
| 09/06/02 | Employee Relative #3   | \$1,000         | Citizens for Mark Shriver |
| 09/06/02 | APEX Employee #1       | \$1,000         | Citizens for Mark Shriver |
| 10/08/02 | APEX Employee #2       | \$1,000         | Bill Nelson for Senate    |
| 10/08/02 | APEX Employee #3       | \$1,000         | Bill Nelson for Senate    |
| 03/05/03 | APEX Employee #2       | \$4,000         | Hynes for Senate          |
| 03/05/03 | APEX Employee #4       | \$4,000         | Hynes for Senate          |
| 03/05/03 | APEX Employee #3       | \$4,000         | Hynes for Senate          |
| 03/05/03 | APEX Employee #5       | \$4,000         | Hynes for Senate          |
| 06/30/03 | James Chao Relative #1 | \$6,000         | Hynes for Senate          |
| 06/30/03 | Employee Relative #1   | \$4,000         | Hynes for Senate          |
| 06/30/03 | Employee Relative #2   | \$4,000         | Hynes for Senate          |
| 09/29/03 | APEX Employee #2       | \$2,000         | Hynes for Senate          |
| 09/29/03 | James Chao Relative #2 | \$4,000         | Hynes for Senate          |
| 09/29/03 | James Chao Relative #3 | \$4,000         | Hynes for Senate          |
| 09/29/03 | APEX Employee #4       | \$4,000         | Hynes for Senate          |
| 09/29/03 | Employee Relative #1   | \$2,000         | Hynes for Senate          |
| 09/29/03 | APEX Employee #3       | \$2,000         | Hynes for Senate          |
| 09/29/03 | Employee Relative #2   | \$2,000         | Hynes for Senate          |
| 09/29/03 | Employee Relative #4   | \$4,000         | Hynes for Senate          |
| 10/03    | James Chao             | \$1,500         | Hynes for Senate          |
| 12/30/03 | APEX Employee #2       | \$1,700         | Hynes for Senate          |
| 12/30/03 | APEX Employee #4       | \$1,800         | Hynes for Senate          |
| 12/30/03 | Employee Relative #1   | \$1,900         | Hynes for Senate          |
| 12/30/03 | APEX Employee #3       | \$1,600         | Hynes for Senate          |
| 12/30/03 | Employee Relative #2   | \$1,800         | Hynes for Senate          |
| 12/30/03 | Employee Relative #4   | \$1,600         | Hynes for Senate          |
| 12/31/03 | James Chao Relative #1 | \$2,000         | Hynes for Senate          |
| 12/31/03 | Employee Relative #5   | \$1,400         | Hynes for Senate          |
| 12/31/03 | APEX Employee #5       | \$1,700         | Hynes for Senate          |
|          |                        |                 |                           |
|          | <b>Total</b>           | <b>\$77,000</b> |                           |

20. At the time of these contributions, Mr. Chao knew that federal law prohibited the use of corporate funds to make federal contributions. Mr. Chao was an experienced contributor who admits that he not only “knew that he could not use corporate funds for federal contributions” and that there were general

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limitations on the amount of money he could contribute as an individual, but also knew the specific limitations on his individual contributions through repeated contact with the Hynes campaign about precisely how much he could contribute under the Millionaires' Amendment. Respondent Chao neither admits nor denies these conclusions.

V. The following violations of the Act occurred:

1. Respondents violated 2 U.S.C. §§ 441b(a) and 441f by reimbursing contributions in the name of another with corporate funds and by making an in-kind contribution with corporate funds.
2. In the case of Respondent Chao, the Commission found reason to believe that these violations were knowingly and willfully made. Respondent Chao neither admits nor denies this conclusion.

VI. Respondents will take the following actions:

1. Respondents APEX and Chao will pay a civil penalty to the Federal Election Commission in the amount of two hundred and seventy-five thousand dollars (\$275,000.00), pursuant to 2 U.S.C. § 437g(a)(5)(A) and 2 U.S.C. § 437g(a)(5)(B);
2. Respondents will cease and desist from violating 2 U.S.C. §§ 441b(a) and 441f; and
3. APEX will waive its right to a refund of all political contributions from the recipient committees and will instruct each recipient to disgorge all illegal contributions referenced in this agreement, which have not been previously refunded or disgorged, to the U.S. Treasury.

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MUR 5405

Apex Healthcare, Inc. and James Chao

VII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

VIII. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

BY: Rhonda J. Vosdigh 4/20/05  
Rhonda J. Vosdigh Date  
Associate General Counsel  
for Enforcement

FOR THE RESPONDENTS:

BY: James Chao April 4, 2005  
James Chao, individually and Date  
on behalf of Apex Healthcare, Inc.

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